

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

TONI Y. KIMBLE, AS PERSONAL
REPRESENTATIVE OF THE ESTATE
OF JARNELL TERRENCE KIMBLE;
AND OGOLIA NELSON KIMBLE,
INDIVIDUALLY AND AS NEXT OF
FRIEND OF JARNELL KIMBLE
GUERRERO;

Plaintiffs,

VS.

BEXAR COUNTY, TEXAS, SHERIFF
OF BEXAR COUNTY, MISHAL
MATHEW,

Defendants.

SA-21-CV-00313-FB

ORDER

Before the Court in the above-styled cause of action is Plaintiff's Motion to Extend Scheduling Order Deadlines [#31]. By her motion, Plaintiff asks the Court to order the parties to confer on proposed amended scheduling recommendations and to enter a new scheduling order in this case. The basis of the request is the fact that Defendant Michal Mathew did not appear in this case until several weeks after the Court entered the governing Scheduling Order. Plaintiff believes that Mathew's late appearance makes it impossible to comply with all deadlines in the Scheduling Order. Having reviewed the motion, the Scheduling Order, and the procedural history of this case, the Court finds the motion to be premature and will dismiss it without prejudice to refile at a later date if necessary.

The record in this case reflects that the undersigned issued a report and recommendation on October 8, 2021, on a motion to dismiss filed by Defendant Michal Mathew, which sought

dismissal of all claims against him for lack of proper service. In response to the motion, Plaintiff moved for an extension of time to properly serve Mathew. The undersigned's report recommends denying the motion to dismiss and granting the requested extension. The report remains pending before the District Court. At this time, Mathew remains a party to this lawsuit and is required to participate in all discovery and comply with all Scheduling Order deadlines.

According to the existing Scheduling Order, discovery does not expire until April 22, 2022, and dispositive motions are not due until May 23, 2022. The only deadline that is approaching is Plaintiff's expert-designation deadline, which is December 10, 2021. If Mathew is refusing to participate in discovery or otherwise impeding Plaintiff's ability to designate experts by this deadline, Plaintiff may file a motion to compel or other appropriate motion. And if Plaintiff wishes to request relief from this expert-designation deadline, Plaintiff can file a motion requesting that specific extension. The motion should include a proposed order with a date certain for the amended deadline.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Extend Scheduling Order Deadlines [#31] is **DISMISSED WITHOUT PREJUDICE**.

SIGNED this 1st day of December, 2021.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE